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09/589,496	06/07/2000	Yechiam Yemini	18704-012	8509

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Proskauer Rose LLP
1585 Broadway
New York, NY 10036

EXAMINER

WORJLOH, JALATEE

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/589,496

Applicant(s)

YEMINI ET AL.

Examiner

Jalatee Worjloh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 18, 2003 has been entered.
2. Claims 1-37 have been examined.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 11, 23, 25-27 and 33-37 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 5930777 to Barber.

Referring to claims 1, 2, 24 and 36, Barber discloses creating electronic security value units associated with said resource under the control of said manager to pay for accessing said resource (see col.5, lines 7-15), creating a pricing strategy, by said manager, for said resource in a denomination of electronic security value units (see col.7, lines 28 and 29), allocating a budget, by said manager, for at least one component of said electronic system to access said resource by

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payment of said electronic security value units, selectively distributing said electronic security value units by said manager to said component of said electronic system in accordance with said budget (see col. 5, lines 52-56), controlling access of said component to said resource based on said pricing strategy established for said resource and based on an amount of payment by said component of one or more of said electronic security value units previously distributed to said component in accordance with said budget; wherein said resource is an interface or group of interfaces in an electronic system (see col. 6, lines 45-61; col. 7, lines 9-37), wherein said pricing strategy is dynamically adjustable at any time such that said amount of said payment required for said component to access said resource may be changed at any time by said manager; wherein the security value units may be used to access a group of one or more resources in said electronic system; wherein said electronic security value units are unique to said resource (see col. 9, lines 24-30).

Referring to claim 8, Barber discloses the method wherein said electronic system is a network, and said component is a client in said network (see abstract, lines 1-3).

Referring to claim 11, Barber discloses a resource manager for determining a pricing strategy in electronic security value units for a group of one or more interfaces for a group of one or more resources in said system (see col. 6, lines 6-9), an electronic bank server for selectively distributing electronic security value units, under the control of said manager, to a component in said system, said electronic security value units being unique to said group of one or more resources (see col. 5, lines 52-56) wherein access to a particular resource in said group of one or more resources by said component is determined by said pricing strategy and requires an amount of payment by said component before said access is granted, wherein said payment consists of

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said electronic security value units previously distributed to said component, wherein said access to said resources is controlled at said one or more interfaces to one or more resources and said one or more interfaces is one of a hardware access point and a software access point (i.e. "web site") (see col. 6, lines 45-61; col. 7, lines 9-37).

Referring to claim 22, Barber discloses the method wherein said budget can be dynamically adjusted at any time (see col. 5, lines 52-56).

Referring to claim 24, Barber discloses said budget is allocated on a per component basis (see col. 5, lines 52-55).

Referring to claim 26, Barber discloses said budget is allocated on a per resource basis (see col. 9, lines 24-27).

Referring to claims 27, Barber discloses said electronic security value units indirectly identify said component accessing said resource (see col. 8, lines 45-60).

Referring to claim 31, Barber discloses selectively distributing electronic security value units, by said manager, to a component of said electronic system (see col. 5, lines 52-56), controlling access to said interface based on a price in electronic security value units established by said manager for said interface and based on an amount of payment by said component, wherein said payment comprises one or more of said electronic security value units previously distributed to said component and paid electronically over said electronic system, wherein said interface is one of a hardware access point and a software access point (i.e. "web site") (see col. 6, lines 45-61; col. 7, lines 9-37).

Referring to claim 33, Barber discloses creating a pricing strategy for said resource in a denomination of said electronic value units (see col. 5, lines 7-15), allocating a budget for one of

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a component and a group of components to access said resource by said payment of said electronic security value units, wherein said step of selectively distributing said electronic security value units comprises selectively distributing said electronic security value units in accordance with said budget (see col. 5, lines 52-56).

Referring to claim 34, Barber discloses dynamically controlling the pricing strategy for said resource to enable dynamic adjustment of the amount of said payment of said electronic security value units by said component to access said resource (see col. 9, lines 24-30).

Referring to claim 35, Barber discloses dynamically controlling said budget (see col. 5, lines 52-56).

Referring to claim 12, Barber discloses said component is charged for multiple accesses of said resource (see col. 9, lines 18-22).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barber as applied to claim 1 above, and further in view of US Patent No. 6389541 to Patterson.

Barber discloses a method for controlling resources (see claim 1 above). Barber does not expressly disclose denying said component access to said resource when said component pays an amount of said electronic security value units less than said price established for said resource. Patterson discloses denying said component access to said resource when said component pays

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an amount of said electronic security value units less than said price established for said resource (see col. 3, lines 44 and 45; col. 4, lines 52-57). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Barber to include the step of denying said component access to said resource when said component pays an amount of said electronic security value units less than said price established for said resource. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized individuals from accessing the resource.

7. Claims 3, 4 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber as applied to claim 1 above, and further in view of US Patent No. 6427140 to Ginter et al.

Barber discloses selectively distributing electronic security value units (see claim 1 above). Barber does not expressly disclose determining whether to distribute any of said electronic security value units to said component. Ginter et al. disclose determining whether to distribute any of said electronic security value units to said component (see col. 162, lines 62-67; col. 132, lines 11-16). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Barber to include the step of disclose determining whether to distribute any of said electronic security value units to said component. One of ordinary skill in the art would have been motivated to do this because it is an inherent step, which assists in resource management.

Referring to claim 4, Barber discloses controlling resource access (see claim 1 above). Barber does not expressly disclose the step of controlling access is based on limiting the number of accesses to said resource, by said component, regardless of the amount of said electronic security value units paid by said component. Ginter et al. disclose the step of controlling access

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is based on limiting the number of accesses to said resource, by said component, regardless of the amount of said electronic security value units paid by said component (see col. 58, lines 21-35). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Barber to include the step of the step of controlling access is based on limiting the number of accesses to said resource, by said component, regardless of the amount of said electronic security value units paid by said component. One of ordinary skill in the art would have been motivated to do this because it assist in prohibiting an overload of the system's resources.

Referring to claim 24, Barber discloses selectively distributing said electronic security value units (see claim 1 above). Barber does not expressly disclose the step of distributing one or more of electronic security value instruments, said electronic security value instruments comprising a quantity of said electronic security value units. Ginter et al. disclose the step of distributing one or more of electronic security value instruments, said electronic security value instruments comprising a quantity of said electronic security value units (see col. 266, liens 5-12, 32-34). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Barber to include the step of distributing one or more of electronic security value instruments, said electronic security value instruments comprising a quantity of said electronic security value units. One of ordinary skill in the art would have been motivated to do this because it is a conventional means for storing electronic value units.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barber as applied to claim 1 above, and further in view of US Publication NO. 2002/0111912 to Hunter et al.

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Barber discloses controlling access of resources (see claim 1 above). Barber does not expressly disclose the step of controlling access is further based on said manager limiting the rate of accesses to said resource by said component. Hunter et al. disclose the step of controlling access is further based on said manager limiting the rate of accesses to said resource by said component (see paragraph [0069]). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Barber to include the step of controlling access is further based on said manager limiting the rate of accesses to said resource by said component. One of ordinary skill in the art would have been motivated to do this because it assist in prohibiting an overload of the system's resources.

9. Claims 7, 9, 10, 28-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber.

Barber discloses creating a pricing strategy (see claim 1 above). Barber does not expressly disclose wherein said price is particular to said component, such that said price is different for other components of said electronic system. However this difference is only found in the nonfunctional descriptive material and is not functionally involved in the step recited. The creating a pricing strategy will be performed the same regardless of the other components price. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *in re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to set a

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different price for each component because such process does not functionally relate to the steps in the method claimed.

Referring to claim 9, Barber discloses a second field (i.e. "target") for indicating a specific resource in a specific electronic system that said particular component may access by payment of said electronic security value instrument (see col. 8, lines 55-60); wherein said electronic security value instrument is used to control access by components to resources in said group of resources based on prices in electronic security value units established for said resources and the quantities of electronic security value units paid by said components (see col. 2, lines 60-66). Barber does not expressly disclose a first field for indicating a quantity of electronic security value units in said instrument. However, this difference is only found in the nonfunctional data stored in the electronic security value instrument. Data indicating a quantity of electronic security value units is not functionally relating to the instrument. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to store any data in the fields of the instrument as shown by Barber because such data does not functionally relate to the instrument and merely labeling the data differently from that in the prior art would have been obvious. See *Gulack* cited above.

Referring to claim 10, Barber discloses the instrument comprising a third field providing an identifier (i.e. "consumer account no") of said electronic security value instrument (see col. 8, lines 55-60).

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Referring to claim 28, Barber discloses said electronic security value units indirectly identify said component accessing said resource (see col. 8, lines 45-60).

Referring to claims 29, 30 and 32, Barber discloses a web-based interface. Barber does not expressly disclose an application program interface (API); however, it is known in the art that an API is a set of routines for building software application. Thus, the web browser, which is a set of routines, may also be consider an API for controlling access to said resource. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Barber to include an API. One of ordinary skill in the art would have been motivated to do this because an API guarantees that all programs using a common API will have similar interfaces.

10. Claims 12-14, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber in view of U.S. Publication No. 2002/0133412 to Oliver et al.

Barber discloses establishing a price, in said electronic security value units, of said resource, said price being established by said manager (see col. 7, lines 28 and 29), selectively distributing a budget by said manager, in said electronic security value units (see col. 5, lines 52-56), controlling, by said manager, of access to said resource by said component, based on said price and on an amount of payment from said component, wherein said payment is at least a portion of said budget distributed to said component (see col. 6, liens 45-61; col. 7, lines 9-37). Barber does not expressly disclose determining the number of accesses that can be accomplished by said component to said resource based on said budget and said price. Oliver et al. disclose determining the number of accesses that can be accomplished by said component to said resource based on said budget and said price (see abstract). At the time the invention was made, it would

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have been obvious to a person of ordinary skill in the art to modify the method disclose by Barber to include the step of determining the number of accesses that can be accomplished by said component to said resource based on said budget and said price. One of ordinary skill in the art would have been motivated to do this because it provides an effective mechanism for managing components accounts and controlling access to resources over the network (see Oliver et al. paragraph [0006]).

Referring to claim 13, Barber discloses the method wherein said price can be dynamically adjusted at any time (see col. 9, lines 24-30).

Referring to claim 14, Barber discloses the method wherein said budget can be dynamically adjusted at any time (see col. 5, lines 52-56).

Referring to claim 19, Barber discloses creating a pricing strategy (see claim 1 above). Barber does not expressly disclose wherein said price is particular to said component, such that said price is different for other components of said electronic system. However this difference is only found in the nonfunctional descriptive material and is not functionally involved in the step recited. The creating a pricing strategy will be performed the same regardless of the other components price. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *in re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to set a different price for each component because such process does not functionally relate to the steps in the method claimed.

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Referring to claim 20, Barber discloses the step wherein establishing a price is based on said budget and a limit on said number of accesses to said resource by said component (see col. 9, lines 24-27).

Referring to claim 21, Barber discloses the step of selectively distributing said budget is based on said price and a limit on said number of accesses to said resource by said component (see col. 5, lines 52-56).

11. Claim 15, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber and Oliver et al. as applied to claim 12 above, and further in view of Ginter et al.

Barber discloses a method for controlling resources (see claim 12 above). Barber does not expressly disclose said resource can comprise a group of resources, each resource of said group having a respective price, and wherein said step of determining further comprises the step of determining the number of accesses that can be accomplished by said component to each said resource of said group. Ginter et al. disclose said resource can comprise a group of resources, each resource of said group having a respective price, and wherein said step of determining further comprises the step of determining the number of accesses that can be accomplished by said component to each said resource of said group (see col. 30, lines 66-67; col. 31, lines 1-4). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclosed by Barber to include the step wherein said resource can comprise a group of resources, each resource of said group having a respective price, and wherein said step of determining further comprises the step of determining the number of accesses that can be accomplished by said component to each said resource of said group. One

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- of ordinary skill in the art would have been motivated to do this because it is an efficient method for monitoring resource usage and activity (see col. 3, lines 20-25).

Referring to claim 16, Barber discloses a method for controlling resources (see claim 12 above). Barber does not expressly disclose said component can comprise a group of components, each component of said group having a respective budget, and wherein said step of determining further comprises the step of determining the number of accesses that can be accomplished by said component of said group of components to said resource. Ginter et al. disclose said component can comprise a group of components, each component of said group having a respective budget, and wherein said step of determining further comprises the step of determining the number of accesses that can be accomplished by said component of said group of components to said resource (see col. 5, lines 43-47). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Barber to include the step wherein said component can comprise a group of components, each component of said group having a respective budget, and wherein said step of determining further comprises the step of determining the number of accesses that can be accomplished by said component of said group of components to said resource. One of ordinary skill in the art would have been motivated to do this because it is an efficient method for monitoring resource usage and activity (see col. 3, liens 20-25).

Referring to claim 18, Barber discloses controlling resource access (see claim 12 above). Barber does not expressly disclose the step of controlling access is based on limiting the number of accesses to said resource, by said component, regardless of the amount of said electronic security value units paid by said component. Ginter et al. disclose the step of controlling access

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- is based on limiting the number of accesses to said resource, by said component, regardless of the amount of said electronic security value units paid by said component (see col. 58, lines 21-35). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Barber to include the step of the step of controlling access is based on limiting the number of accesses to said resource, by said component, regardless of the amount of said electronic security value units paid by said component. One of ordinary skill in the art would have been motivated to do this because it assist in prohibiting an overload of the system's resources.

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barber and Oliver et al. as applied to claim 12 above, and further in view of US Patent No. 6389541 to Patterson.

Barber discloses a method for controlling resources (see claim 1 above). Barber does not expressly disclose denying said component access to said resource when said payment form said component is less than said price established for said resource. Patterson discloses denying said component access to said resource when said payment form said component is less than said price established for said resource. (see col. 3, lines 44 and 45; col. 4, lines 52-57). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Barber to include the step of denying said component access to said resource when said payment form said component is less than said price established for said resource. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized individuals from accessing the resource.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jalatee Worjloh whose telephone number is 703-305-0057. The examiner can normally be reached on Mondays-Thursdays 8:30 - 7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703-305-9768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306, 703-746-9443 for Non-Official/Draft.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

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JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

March 9, 2004